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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/762,989

01/22/2004

Russell A. Shepherd

2003-158

5995

27569 7590 04/16/2007
PAUL AND PAUL
2000 MARKET STREET
SUITE 2900
PHILADELPHIA, PA 19103

EXAMINER

ELKINS, GARY E

ART UNIT

PAPER NUMBER

3782

SHORTENED STATUTORY PERIOD OF RESPONSE	NOTIFICATION DATE	DELIVERY MODE
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3 MONTHS

04/16/2007

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Notice of this Office communication was sent electronically on the above-indicated "Notification Date" and has a shortened statutory period for reply of 3 MONTHS from 04/16/2007.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary

Application No.

10/762,989

Applicant(s)

SHEPHERD, RUSSELL A.

Examiner

Gary E. Elkins

Art Unit

3782

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 January 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. Claims 8, 9 and 15-17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 8, lines 2 and 3, "at least one access opening" is a double inclusion of an element insofar as claim 1 previously introduced the access opening.

In claim 15, part (g), lines 6 and 7, "right and left wall panels" is a double inclusion of elements since the right and left end wall panels were previously introduced in the claim.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

3. Claims 1-3, 5, 6 and 10-14 are rejected under 35 U.S.C. 102(a) as being anticipated by Hearne et al (figs. 7, 7a emb.). Hearne et al discloses a container and a container preassembly (see fig. 2 for collapsed configuration) including a front wall formed with an opening and inner spacer panels foldably connected to both of the front and back walls, i.e. the spacer panels are connected along fold lines to an inner front panel and along fold lines and glue flaps to the back panel within the container and preassembly. With respect to claim 13, the glue flaps, spacer panels and inner front panel in Hearne et al are considered to form a "divider unit" insofar as claimed.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hearne et al (figs. 7, 7a emb) in view of Kanter et al '282. Hearne et al discloses all structure of the claimed container except a divider extending between the front and back walls. Kanter et al '282 teaches that it is known to make a container with a center divider extending between front and back walls of the container by forming a rear or back wall using two sections. It would have been obvious to make the container of Hearne et al with an additional center divider as taught by Kanter et al '282 to provide additional compartments within the container.

6. Claims 7, 8, 15 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hearne et al (figs. 7, 7a emb) in view of Sheffer '356 (figs. 1, 2 emb). Hearne et al discloses all structure of the claimed container and blank except a secondary back or rear panel. Sheffer '356 teaches that it is known to make a back or rear wall formed with a downwardly folded inner panel sized between two inner walls panels (44) to provide a double rear wall construction. It would have been obvious to make the back or rear wall in the container and blank of Hearne et al with a downwardly folded inner back wall panel formed between the spacer panels as taught by Sheffer '356 to provide a stronger double panel construction on the rear wall. With respect to claim 15, note is made that the spacer panels in the blank of Hearne et al are each foldably

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connected at one end to one of the secondary front and back wall panels, i.e. they are each foldably connected to the secondary front wall panel.

7. Claims 9 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over the prior art as applied to claims 8 and 15 above, and further in view of Kanter et al '282. Modified Hearne et al discloses all structure of the claimed container except a divider foldably connected to opposing walls (cl. 9) or foldably connected to at least one of the primary or secondary front or back wall panels (cl. 17). Kanter et al '282 teaches that it is known to make a container with a center divider extending between front and back walls of the container by forming a rear or back wall using two sections, i.e. connected to at least one of the primary or secondary front or back wall panels. It would have been obvious to make the container of Hearne et al with an additional center divider as taught by Kanter et al '282 to provide additional compartments within the container.

Response to Arguments

8. Applicant's arguments with respect to claims 1-17 have been considered but are moot in view of the new ground(s) of rejection.

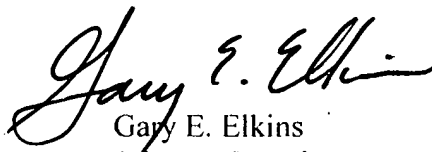
Conclusion

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after

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the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.


Gary E. Elkins
Primary Examiner
Art Unit 3782

gee
09 April 2007